Remarks

Prior to this communication, claims 10 – 40 were pending, and claims 15 – 40 were restricted. By this response, claims 10 – 14 have been amended; claims 15 – 40 have been withdrawn; and claims 41 – 44 have been added. Reconsideration and examination in view of the following remarks are respectfully requested.

Election/Restrictions

Claims 15 – 40 were restricted by the Examiner.

Applicant thus elects claims 10 – 14 for prosecution. As such, claims 15 – 40 have been withdrawn. Applicant reserves the right to prosecute the non-elected claims in one or more divisional patent applications.

35 U.S.C. § 103 Rejections

Claims 10 – 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,643,086 ("Alcorn") in view of U.S. Patent No. 5,003,507 ("Johnson").

Claims 10 – 14 have been amended.

Claim 10 is directed to "a method for verifying the stored game software using an external EPROM reader," that includes, among other things, "providing on a browsing access screen a plurality of V-PROMs resident on the storage media of the gaming machine," "downloading the selected V-PROM to an EPROM emulator," and "connecting an external EPROM reader to the EPROM emulator," in "an electronic gaming machine having (1) game software stored in a non-EPROM storage media in the form of V-PROMs, and (2) an EPROM emulator."

Alcorn does not teach or suggest amended claims 10 – 14.

Rather, Alcorn discloses an apparatus for authenticating software stored using media other than EPROMs, such as a hard drive.

However, Alcorn discloses that the software inspects itself and renders a verdict as to its own authenticity, without any devices external to the gaming machine. For example, Alcorn discloses that "authentication of a casino game data set is carried out within the casino game console using an authentication program stored in an unalterable ROM physically located within the casino game console." (Col. 2, lines 23 – 26.) Alcorn also discloses that "a player selects a casino game for game play in the system, the authenticity of that game actually stored in the mass storage unit is automatically checked using the authentication procedure described above without removing the ROM 29." (Col. 9, lines 40 – 44.)

Therefore, Alcorn does not teach or suggest, among other things, "a method for verifying the stored game software using an external EPROM reader," and "connecting an external EPROM reader to the EPROM emulator," as recited in claim 10.

Furthermore, Alcorn also teaches away from using an external EPROM reader, since the apparatus in Alcorn is a self-authenticating apparatus.

The Examiner also appears to construe the claimed "screen" displaying "a plurality of V-PROMs," to include "video subsystem 22" displaying "full color still images and MPEG movies." For example, the Examiner indicates that "Alcorn: column 6, lines 58 – 63; video subsystem 22 provides display capability of the various games within the 'game specific data set' – the V-PROM." (Page 5, Action.) However, Alcorn discloses that "[the] **video subsystem 22** is coupled to the PCI bus and provides the capability of **displaying full color still images and MPEG movies** with a relatively high frame rate (e.g. 30 frames per second) on an appropriate monitor (not shown)." (Col. 6, lines 58 – 63, emphasis added.) The Examiner thus asserts that "'game specific data set' – the V-PROM" is "full color still images and MPEG movies."

Even if Applicant were to follow Examiner's assertions that "the 'game specific data set' serves as the file folders and directories containing software and data for the V-PROM as defined by Applicant's specification," and Applicant does not, the "game specific data set," which serves as the "file folders and directories" **is not** "full color still images and MPEG movies." Rather, the "game specific data set," which serves as the "file folders and directories" simply **contains** "software and data for the V-PROMs," even if the data may contain image data and/or MPEG movies data.

Therefore, Alcorn does not teach or suggest, among other things, "a method for verifying the stored game software using an external EPROM reader," and "providing on a browsing access screen a plurality of V-PROMs resident on the storage media of the gaming machine," as recited in claim 10.

Moreover, Alcorn does not teach or suggest "a method for verifying the stored game software using an external EPROM reader," that includes, among other things, "downloading the selected V-PROM to an EPROM emulator," as recited in claim 10.

Rather, Alcorn indicates that when a game is played at the gaming console, the game is checked and authenticated without any emulators. For example, Alcorn discloses that "player selects a casino game for game play in the system, the authenticity of that game actually stored in the mass storage unit is automatically checked using the authentication procedure described above without removing the ROM 29." (Col. 9, lines 40 – 44.)

Therefore, Alcorn does not teach or suggest "a method for verifying the stored game software using an external EPROM reader," that includes, among other things, "downloading the selected V-PROM to an EPROM emulator," as recited in claim 10.

Johnson does not cure the deficiencies of Alcorn.

Specifically, Johnson does not teach or suggest, among other things, "a method for verifying the stored game software using an external EPROM reader," "providing on a browsing

access screen a plurality of V-PROMs resident on the storage media of the gaming machine,"
"downloading the selected V-PROM to an EPROM emulator," and "connecting an external
EPROM reader to the EPROM emulator," as recited in claim 10.

As indicated above, Alcorn teaches away from combining or using with "an external
EPROM reader," and "connecting an external EPROM reader to the EPROM emulator," as
recited in claim 10.

Furthermore, Johnson does not teach or fairly suggest "providing on a browsing access
screen a plurality of V-PROMs resident on the storage media of the gaming machine," and
"connecting an external EPROM reader to the EPROM emulator," as recited in claim 10.

Therefore, neither Alcorn nor Johnson, either alone or in combination, teaches or
suggests claim 10. Accordingly, claim 10 is allowable in view of Alcorn and Johnson, for at
least the reasons set forth above.

Claim 11 depends from claim 10. Therefore, claim 11 is also allowable for at least the
reasons set forth above.

Amended claim 12 is directed to "[a] method for verifying software of a gaming machine
contained in a plurality of memory types other than EPROMs using an external EPROM reading
and verification device." The method includes, among other things, "abstracting the software of
the memory type into a plurality of virtual EPROM (V-EPROM) sets," "listing the V-EPROM
sets in a registry library," "displaying the registry to receive a selection of at least one of the V-
EPROM sets," "receiving the selection of at least one set," and "providing the selected at least
one set to the external EPROM verification device for verifying the selected at least one set."

As discussed above, Alcorn discloses that the software inspects itself and renders a
verdict as to its own authenticity, without any devices external to the gaming machine.

Also, Alcorn discloses that "[the] **video subsystem 22** is coupled to the PCI bus and provides the capability of **displaying full color still images and MPEG movies** with a relatively high frame rate (e.g. 30 frames per second) on an appropriate monitor (not shown)." (Col. 6, lines 58 – 63, emphasis added.) The Examiner asserts that "'game specific data set' – the V-PROM" is "full color still images and MPEG movies." The "game specific data set," which serves as the "file folders and directories" **is not** "full color still images and MPEG movies." Rather, the "game specific data set," which serves as the "file folders and directories" simply **contains** "software and data for the V-PROMs," even if the data may contain image data and/or MPEG movies data.

Therefore, neither Alcorn nor Johnson, either alone or in combination, teaches or suggests, "[a] method for verifying software of a gaming machine contained in a plurality of memory types other than EPROMs using an external EPROM reading and verification device," "displaying the registry to receive a selection of at least one of the V-EPROM sets," and "providing the selected at least one set to the external EPROM verification device for verifying the selected at least one set," as recited in claim 12, with similar reasons set forth above with respect to claim 10.

Accordingly, claim 12 is allowable for at least the reasons set forth above.

Similarly, amended claim 13 is directed to "[a] method for verifying software for a gaming machine resident on memory devices other than EPROMs using external EPROM verification." The method includes, among other things, "abstracting the software of the memory type into a plurality of virtual EPROM (V-EPROM) data sets," "listing the V-EPROM data sets in a registry library," "displaying the registry to receive a selection of at least one of the V-EPROM sets," "receiving the selection of at least one set," and "using the external EPROM verification verifying the selected set."

As discussed above, Alcorn discloses that the software inspects itself and renders a verdict as to its own authenticity, without any devices external to the gaming machine.

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Also, Alcorn discloses that "[the] **video subsystem 22** is coupled to the PCI bus and provides the capability of **displaying full color still images and MPEG movies** with a relatively high frame rate (e.g. 30 frames per second) on an appropriate monitor (not shown)." (Col. 6, lines 58 – 63, emphasis added.) The Examiner asserts that "'game specific data set' – the V-PROM" is "full color still images and MPEG movies." The "game specific data set," which serves as the "file folders and directories" **is not** "full color still images and MPEG movies." Rather, the "game specific data set," which serves as the "file folders and directories" simply **contains** "software and data for the V-PROMs," even if the data may contain image data and/or MPEG movies data.

Therefore, neither Alcorn nor Johnson, either alone or in combination, teaches or suggests, "[a] method for verifying software of a gaming machine contained in a plurality of memory types other than EPROMs using an external EPROM reading and verification device," "displaying the registry to receive a selection of at least one of the V-EPROM sets," and "providing the selected at least one set to the external EPROM verification device for verifying the selected at least one set," as recited in claim 13.

Accordingly, claims 13 and 14 are allowable for at least the reasons set forth above.

Before proceeding further, the Examiner asserts that "the 'game specific data set' serves as the file folders and directories containing software and data for the V-PROM as defined by Applicant's specification," on pages 5 – 7 of the Action.

Applicant disputes the Examiner's assertions that "the 'game specific data set' serves as the file folders and directories containing software and data for the V-PROM as defined by Applicant's specification." Because Alcorn clearly does not disclose or suggest 'game specific data set' serving as the file folders and directories containing software and data for the V-PROM as defined by Applicant's specification, Applicant can only assume that the Action is taking Official Notice of the subject matter disclosed in claims 10, 12 and 13 regarding the use of V-PROM or V-EPROM as defined in Applicant's invention.

Assuming the Office Action is asserting Official Notice that the subject of the above

listed statements is common knowledge, Applicant respectfully traverses the perceived and explicit assertions as further set forth below. Alternatively, if the Office Action's assertions are based on the personal knowledge of the Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should **only** be asserted when the subjects asserted to be common knowledge are "capable of instant and unquestionable demonstration as being well-known." That is, the subjects asserted must be of "notorious character" under MPEP § 2144.03(A).

However, Applicant respectfully submits that the subject matter of the perceived and explicit assertions of Official Notice, as stated in pages 5 – 7 of the Office Action, are not well-known in the art as evidenced by the searched and cited prior art. Applicant respectfully submits that the Examiner has performed "a thorough search of the prior art," as part of the Examiner's obligation in examining the present application under MPEP § 904.02.

Additionally, Applicant respectfully submits that the Examiner's searched and cited references found during the Examiner's thorough and detailed search of the prior art are indicative of the knowledge commonly held in the art. However, in the Examiner's thorough and detailed search of the relevant prior art, none of the prior art taught or suggested the subject matter of the perceived and explicit assertions of Official Notice with regards to claims 10, 12 and 13, as stated in pages 5 – 7 of the Office Action. That is, the Examiner's thorough and detailed search of the prior art has failed to yield any mention of the limitations in claims 10, 12 and 13. Applicant respectfully submits that if the subject matter of these assertions of Official Notice had been of "notorious character" and "capable of instant and unquestionable demonstration as being well-known" under MPEP § 2144.03(A), then the subject matter would have appeared to the Examiner during the Examiner's thorough and detailed search of the prior art.

If the Examiner had found any teaching of relevant subject matter, the Examiner would have been obligated to list the references teaching the relevant subject matter and make a rejection. Consequently, Applicant respectfully submits that the prior art does not teach the subject matter of the perceived assertions of Official Notice stated in page 5 – 7 of the Office

Action and respectfully traverses the perceived assertions of Official Notice.

Applicant specifically challenges the perceived and explicit assertions of Official Notice with regard to claims 10, 12 and 13. As stated above, Applicant respectfully traverses the perceived and explicit assertions of Official Notice and submits that the subject matter of claims 10, 12 and 13 is not of such "notorious character" that it is "capable of instant and unquestionable demonstration as being well-known." Under MPEP 2144.03, the Examiner is now obligated to provide a reference(s) in support of the perceived assertions of Official Notice if the Examiner intends to maintain any rejection based thereon. Additionally, Applicant respectfully requests the Examiner reconsider the assertion of Official Notice and provide any basis for the assertions of Official Notice.

Newly Added Claims

Dependent claims 41 – 44 have been added.

Claims 41 and 42 depend from claims 10 and 41, respectively. Claim 41 includes "downloading information of the selected V-PROM to the EPROM emulator." Claim 42 further defines the "information" to include "a V-PROM name, a description of a stored game software and data, a version number of the stored game software and data, statistical and marketing information of the stored game software and data."

Claim 43 depends from claim 12, and defines the registry to include "a location and media type of the software and data, and a name of the software."

Claim 44 depends from claim 13, and defines the registry to include "a location and media type of the software and data, and a name of the software."

No new matter has been added.

CONCLUSION

Entry of the Amendment and allowance of the pending claims are respectfully requested. The undersigned is available for telephone consultation at any time during normal business hours.

Respectfully submitted,

Dated: April 29, 2009   By: ___/Larry M. Jarvis/_____
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